

ASSEMBLY BILL

No. 99

Introduced by Assembly Member De Leon

January 7, 2009

An act to amend Section 21628 of the Business and Professions Code, relating to secondhand goods.

LEGISLATIVE COUNSEL'S DIGEST

AB 99, as amended, De Leon. Secondhand dealers and coin dealers.

Existing law requires secondhand dealers and coin dealers, as defined, to report acquisitions of tangible personal property on a daily basis to local law enforcement authorities, as specified. Existing law requires that report to include the identification of the intended seller or pledger of the property and requires that the person taking the information verify that identification. Existing law provides that this verification is valid if the person taking the information reasonably relies on a specified document, including, but not limited to, a United States passport, an identification card issued by any state, or a passport from any other country in addition to another item of identification bearing an address.

This bill would also provide that the verification is valid if the person taking the information reasonably relies on a Matricula Consular in addition to another item of identification bearing an address.

This bill would incorporate additional changes to Section 21628 of the Business and Professions Code proposed by SB 449, to be operative only if SB 449 and this bill become effective on or before January 1, 2010, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 21628 of the Business and Professions Code is amended to read:

21628. Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property that he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (j) of this section. The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

(a) The name and current address of the intended seller or pledger of the property.

(b) The identification of the intended seller or pledger. The identification of the seller or pledger of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, and, where applicable, is signed by the person, and bears a serial or other identifying number:

- (1) A passport of the United States.
- (2) A driver's license issued by any state, or Canada.
- (3) An identification card issued by any state.
- (4) An identification card issued by the United States.
- (5) A passport from any other country in addition to another item of identification bearing an address.
- (6) A Matricula Consular in addition to another item of identification bearing an address.

(c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically

1 requested to do so by a peace officer. A special tool does not
2 include a penknife, caseknife, or similar instrument and
3 disassembling a watch with a penknife, caseknife, or similar
4 instrument does not constitute a special skill. In all instances where
5 the required information may be obtained by removal of a
6 watchband, then the watchband shall be removed. The cost
7 associated with opening the watch shall be borne by the
8 pawnbroker, secondhand dealer, or customer.

9 (d) A complete and reasonably accurate description of
10 nonserialized property, including, but not limited to, the following:
11 size, color, material, manufacturer's pattern name (when known),
12 owner-applied numbers and personalized inscriptions and other
13 identifying marks or symbols. Watches need not be disassembled
14 when special skill or special tools are required to obtain the
15 required information, unless specifically requested to do so by a
16 peace officer. A special tool does not include a penknife, caseknife,
17 or similar instrument and disassembling a watch with a penknife,
18 caseknife, or similar instrument does not constitute a special skill.
19 In all instances where the required information may be obtained
20 by removal of a watchband, then the watchband shall be removed.
21 The cost associated with opening the watch shall be borne by the
22 pawnbroker, secondhand dealer, or customer.

23 (e) A certification by the intended seller or pledger that he or
24 she is the owner of the property or has the authority of the owner
25 to sell or pledge the property.

26 (f) A certification by the intended seller or pledger that to his
27 or her knowledge and belief the information is true and complete.

28 (g) A legible fingerprint taken from the intended seller or
29 pledger, as prescribed by the Department of Justice. This
30 requirement does not apply to a coin dealer, unless required
31 pursuant to local regulation.

32 (h) When a secondhand dealer complies with all of the
33 provisions of this section, he or she shall be deemed to have
34 received from the seller or pledger adequate evidence of authority
35 to sell or pledge the property for all purposes included in this
36 article, and Division 8 (commencing with Section 21000) of the
37 Financial Code.

38 In enacting this subdivision, it is the intent of the Legislature
39 that its provisions shall not adversely affect the implementation
40 of, or prosecution under, any provision of the Penal Code.

1 (i) Any person who conducts business as a secondhand dealer
2 at any gun show or event, as defined in Section 478.100 of Title
3 27 of the Code of Federal Regulations, or its successor, outside
4 the jurisdiction that issued the secondhand dealer license in
5 accordance with subdivision (d) of Section 21641, may be required
6 to submit a duplicate of the transaction report prepared pursuant
7 to this section to the local law enforcement agency where the gun
8 show or event is conducted.

9 (j) (1) The Department of Justice shall, in consultation with
10 appropriate local law enforcement agencies, develop clear and
11 comprehensive descriptive categories denoting tangible personal
12 property subject to the reporting requirements of this section. These
13 categories shall be incorporated by secondhand dealers and coin
14 dealers described in Section 21626 for purposes of the reporting
15 requirements set forth herein. Any required report shall be
16 transmitted by electronic means. The Department of Justice and
17 local law enforcement agencies, in consultation with representatives
18 from the secondhand dealer and coin dealer businesses, shall
19 develop a standard format to be used statewide to transmit this
20 report electronically.

21 (2) Twelve months after the format and the categories described
22 in paragraph (1) have been developed, each secondhand dealer
23 and coin dealer shall electronically report using this format the
24 information required by this section under these reporting
25 categories. Until that time, each secondhand dealer and coin dealer
26 may either continue to report this information using existing forms
27 and procedures or may begin electronically reporting this
28 information under the reporting categories and using the format
29 described in paragraph (1) as soon as each has been developed.

30 (3) A coin dealer who engages in less than 10 transactions each
31 week in which he or she has purchased, taken in trade, taken in
32 pawn, accepted for sale or consignment, or accepted for auctioning
33 tangible personal property, shall report the information required
34 by this section under the reporting categories described in
35 paragraph (1) on a form developed by the Attorney General that
36 the coin dealer shall transmit each day by facsimile transmission
37 or by mail to the chief of police or sheriff. A transaction shall
38 consist of not more than one item. Nothing in this section shall
39 prohibit up to 10 transactions with the same customer per week,
40 provided that the cumulative total per week for all customers does

1 not exceed 10 transactions. Until that form is developed, these
2 coin dealers shall continue to report information required by this
3 section using existing forms and procedures. If these transactions
4 increase to 10 per week, the coin dealer shall electronically report
5 using the format described in paragraph (1) the information
6 required by this section beginning six months after his or her
7 transactions exceed 10 per week or 12 months after the format
8 described in paragraph (1) has been developed, whichever occurs
9 later.

10 (4) For purposes of this subdivision, “item” shall mean any
11 single physical article. However, with respect to a commonly
12 accepted grouping of articles that are purchased as a set, including,
13 but not limited to, a pair of earrings or place settings of china,
14 silverware, or other tableware, “item” shall mean that commonly
15 accepted grouping.

16 (5) Nothing in this subdivision shall be construed as excepting
17 a secondhand dealer from the fingerprinting requirement of
18 subdivision (g).

19 *SEC. 1.5. Section 21628 of the Business and Professions Code*
20 *is amended to read:*

21 21628. Every secondhand dealer or coin dealer described in
22 Section 21626 shall report daily, or on the first working day after
23 receipt or purchase of the property, on forms either approved or
24 provided at actual cost by the Department of Justice, all tangible
25 personal property ~~which~~ *that* he or she has purchased, taken in
26 trade, taken in pawn, accepted for sale on consignment, or accepted
27 for auctioning, to the chief of police or to the sheriff, in accordance
28 with the provisions of Sections 21630 and 21633 and subdivision
29 (j) of this section. The report shall be legible, prepared in English,
30 completed where applicable, and include, but not be limited to,
31 the following information:

32 (a) The name and current address of the intended seller or
33 pledger of the property.

34 (b) The identification of the intended seller or pledger. The
35 identification of the seller or pledger of the property shall be
36 verified by the person taking the information. The verification
37 shall be valid if the person taking the information reasonably relies
38 on any one of the following documents, provided that the document
39 is currently valid or has been issued within five years and contains
40 a photograph or description, or both, of the person named on it,

1 *and, where applicable*, is signed by the person, and bears a serial
2 or other identifying number:

- 3 (1) A passport of the United States.
- 4 (2) A driver's license issued by any state, or Canada.
- 5 (3) An identification card issued by any state.
- 6 (4) An identification card issued by the United States.
- 7 (5) A passport from any other country in addition to another
8 item of identification bearing an address.
- 9 (6) *A Matricula Consular in addition to another item of*
10 *identification bearing an address.*

11 (c) A complete and reasonably accurate description of serialized
12 property, including, but not limited to, the following: serial number
13 and other identifying marks or symbols, owner-applied numbers,
14 manufacturer's named brand, and model name or number. Watches
15 need not be disassembled when special skill or special tools are
16 required to obtain the required information, unless specifically
17 requested to do so by a peace officer. A special tool does not
18 include a penknife, caseknife, or similar instrument and
19 disassembling a watch with a penknife, caseknife, or similar
20 instrument does not constitute a special skill. In all instances where
21 the required information may be obtained by removal of a
22 watchband, then the watchband shall be removed. The cost
23 associated with opening the watch shall be borne by the
24 pawnbroker, secondhand dealer, or customer.

25 (d) A complete and reasonably accurate description of
26 nonserialized property, including, but not limited to, the following:
27 size, color, material, manufacturer's pattern name (when known),
28 owner-applied numbers and personalized inscriptions, and other
29 identifying marks or symbols. Watches need not be disassembled
30 when special skill or special tools are required to obtain the
31 required information, unless specifically requested to do so by a
32 peace officer. A special tool does not include a penknife, caseknife,
33 or similar instrument and disassembling a watch with a penknife,
34 caseknife, or similar instrument does not constitute a special skill.
35 In all instances where the required information may be obtained
36 by removal of a watchband, then the watchband shall be removed.
37 The cost associated with opening the watch shall be borne by the
38 pawnbroker, secondhand dealer, or customer.

1 (e) A certification by the intended seller or pledger that he or
2 she is the owner of the property or has the authority of the owner
3 to sell or pledge the property.

4 (f) A certification by the intended seller or pledger that to his
5 or her knowledge and belief the information is true and complete.

6 (g) A legible fingerprint taken from the intended seller or
7 pledger, as prescribed by the Department of Justice. This
8 requirement does not apply to a coin dealer, unless required
9 pursuant to local regulation.

10 (h) When a secondhand dealer complies with all of the
11 provisions of this section, he or she shall be deemed to have
12 received from the seller or pledger adequate evidence of authority
13 to sell or pledge the property for all purposes included in this
14 article, and Division 8 (commencing with Section 21000) of the
15 Financial Code.

16 In enacting this subdivision, it is the intent of the Legislature
17 that its provisions shall not adversely affect the implementation
18 of, or prosecution under, any provision of the Penal Code.

19 (i) Any person who conducts business as a secondhand dealer
20 at any gun show or event, as defined in Section 478.100 of Title
21 27 of the Code of Federal Regulations, or its successor, outside
22 the jurisdiction that issued the secondhand dealer license in
23 accordance with subdivision (d) of Section 21641, may be required
24 to submit a duplicate of the transaction report prepared pursuant
25 to this section to the local law enforcement agency where the gun
26 show or event is conducted.

27 (j) (1) The Department of Justice shall, in consultation with
28 appropriate local law enforcement agencies, develop clear and
29 comprehensive descriptive categories denoting tangible personal
30 property subject to the reporting requirements of this section. These
31 categories shall be incorporated by secondhand dealers and coin
32 dealers described in Section 21626 for purposes of the reporting
33 requirements set forth herein. Any required report shall be
34 transmitted by electronic means. The Department of Justice and
35 local law enforcement agencies, in consultation with representatives
36 from the secondhand dealer and coin dealer businesses, shall
37 develop a standard format to be used statewide to transmit this
38 report electronically.

39 (2) Twelve months after the format and the categories described
40 in paragraph (1) have been developed, each secondhand dealer

1 and coin dealer shall electronically report using this format the
2 information required by this section under these reporting
3 categories. Until that time, each secondhand dealer and coin dealer
4 may either continue to report this information using existing forms
5 and procedures or may begin electronically reporting this
6 information under the reporting categories and using the format
7 described in paragraph (1) as soon as each has been developed.

8 (3) A coin dealer who engages in less than 10 transactions each
9 week in which he or she has purchased, taken in trade, taken in
10 pawn, accepted for sale or consignment, or accepted for auctioning
11 tangible personal property, shall report the information required
12 by this section under the reporting categories described in
13 paragraph (1) on a form developed by the Attorney General that
14 the coin dealer shall transmit each day by facsimile transmission
15 or by mail to the chief of police or sheriff. A transaction shall
16 consist of not more than one item. Nothing in this section shall
17 prohibit up to 10 transactions with the same customer per week,
18 provided that the cumulative total per week for all customers does
19 not exceed 10 transactions. Until that form is developed, these
20 coin dealers shall continue to report information required by this
21 section using existing forms and procedures. If these transactions
22 increase to 10 per week, the coin dealer shall electronically report
23 using the format described in paragraph (1) the information
24 required by this section beginning six months after his or her
25 transactions exceed 10 per week or 12 months after the format
26 described in paragraph (1) has been developed, whichever occurs
27 later.

28 (4) For purposes of this subdivision, “item” shall mean any
29 single physical article. However, with respect to a commonly
30 accepted grouping of articles that are purchased as a set, including,
31 but not limited to, a pair of earrings or place settings of china,
32 silverware, or other tableware, “item” shall mean that commonly
33 accepted grouping.

34 (5) Nothing in this subdivision shall be construed as excepting
35 a secondhand dealer from the fingerprinting requirement of
36 subdivision (g).

37 (6) *This section shall become inoperative on July 1, 2010, and,*
38 *as of January 1, 2011, is repealed, unless a later enacted statute,*
39 *that becomes operative on or before January 1, 2011, deletes or*
40 *extends the dates on which it becomes inoperative and is repealed.*

SEC. 1.7. Section 21628 is added to the Business and Professions Code, to read:

21628. Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property, except for firearms, which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (j) of this section. The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

(a) The name and current address of the intended seller or pledger of the property.

(b) The identification of the intended seller or pledger. The identification of the seller or pledger of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, and, where applicable, is signed by the person, and bears a serial or other identifying number:

(1) A passport of the United States.

(2) A driver's license issued by any state, or Canada.

(3) An identification card issued by any state.

(4) An identification card issued by the United States.

(5) A passport from any other country in addition to another item of identification bearing an address.

(6) A Matricula Consular in addition to another item of identification bearing an address.

(c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and

1 *disassembling a watch with a penknife, caseknife, or similar*
2 *instrument does not constitute a special skill. In all instances where*
3 *the required information may be obtained by removal of a*
4 *watchband, then the watchband shall be removed. The cost*
5 *associated with opening the watch shall be borne by the*
6 *pawnbroker, secondhand dealer, or customer.*

7 *(d) A complete and reasonably accurate description of*
8 *nonserialized property, including, but not limited to, the following:*
9 *size, color, material, manufacturer's pattern name (when known),*
10 *owner-applied numbers and personalized inscriptions, and other*
11 *identifying marks or symbols. Watches need not be disassembled*
12 *when special skill or special tools are required to obtain the*
13 *required information, unless specifically requested to do so by a*
14 *peace officer. A special tool does not include a penknife, caseknife,*
15 *or similar instrument and disassembling a watch with a penknife,*
16 *caseknife, or similar instrument does not constitute a special skill.*
17 *In all instances where the required information may be obtained*
18 *by removal of a watchband, then the watchband shall be removed.*
19 *The cost associated with opening the watch shall be borne by the*
20 *pawnbroker, secondhand dealer, or customer.*

21 *(e) A certification by the intended seller or pledger that he or*
22 *she is the owner of the property or has the authority of the owner*
23 *to sell or pledge the property.*

24 *(f) A certification by the intended seller or pledger that to his*
25 *or her knowledge and belief the information is true and complete.*

26 *(g) A legible fingerprint taken from the intended seller or*
27 *pledger, as prescribed by the Department of Justice. This*
28 *requirement does not apply to a coin dealer, unless required*
29 *pursuant to local regulation.*

30 *(h) When a secondhand dealer complies with all of the*
31 *provisions of this section, he or she shall be deemed to have*
32 *received from the seller or pledger adequate evidence of authority*
33 *to sell or pledge the property for all purposes included in this*
34 *article, and Division 8 (commencing with Section 21000) of the*
35 *Financial Code.*

36 *In enacting this subdivision, it is the intent of the Legislature*
37 *that its provisions shall not adversely affect the implementation*
38 *of, or prosecution under, any provision of the Penal Code.*

39 *(i) Any person who conducts business as a secondhand dealer*
40 *at any gun show or event, as defined in Section 478.100 of Title*

1 27 of the Code of Federal Regulations, or its successor, outside
2 the jurisdiction that issued the secondhand dealer license in
3 accordance with subdivision (d) of Section 21641, may be required
4 to submit a duplicate of the transaction report prepared pursuant
5 to this section to the local law enforcement agency where the gun
6 show or event is conducted.

7 (j) (1) The Department of Justice shall, in consultation with
8 appropriate local law enforcement agencies, develop clear and
9 comprehensive descriptive categories denoting tangible personal
10 property subject to the reporting requirements of this section.
11 These categories shall be incorporated by secondhand dealers
12 and coin dealers described in Section 21626 for purposes of the
13 reporting requirements set forth herein. Any required report shall
14 be transmitted by electronic means. The Department of Justice
15 and local law enforcement agencies, in consultation with
16 representatives from the secondhand dealer and coin dealer
17 businesses, shall develop a standard format to be used statewide
18 to transmit this report electronically.

19 (2) Twelve months after the format and the categories described
20 in paragraph (1) have been developed, each secondhand dealer
21 and coin dealer shall electronically report using this format the
22 information required by this section under these reporting
23 categories. Until that time, each secondhand dealer and coin dealer
24 may either continue to report this information using existing forms
25 and procedures or may begin electronically reporting this
26 information under the reporting categories and using the format
27 described in paragraph (1) as soon as each has been developed.

28 (3) A coin dealer who engages in less than 10 transactions each
29 week in which he or she has purchased, taken in trade, taken in
30 pawn, accepted for sale or consignment, or accepted for auctioning
31 tangible personal property, shall report the information required
32 by this section under the reporting categories described in
33 paragraph (1) on a form developed by the Attorney General that
34 the coin dealer shall transmit each day by facsimile transmission
35 or by mail to the chief of police or sheriff. A transaction shall
36 consist of not more than one item. Nothing in this section shall
37 prohibit up to 10 transactions with the same customer per week,
38 provided that the cumulative total per week for all customers does
39 not exceed 10 transactions. Until that form is developed, these
40 coin dealers shall continue to report information required by this

1 section using existing forms and procedures. If these transactions
2 increase to 10 per week, the coin dealer shall electronically report
3 using the format described in paragraph (1) the information
4 required by this section beginning six months after his or her
5 transactions exceed 10 per week or 12 months after the format
6 described in paragraph (1) has been developed, whichever occurs
7 later.

8 (4) For purposes of this subdivision, "item" shall mean any
9 single physical article. However, with respect to a commonly
10 accepted grouping of articles that are purchased as a set,
11 including, but not limited to, a pair of earrings or place settings
12 of china, silverware, or other tableware, "item" shall mean that
13 commonly accepted grouping.

14 (5) Nothing in this subdivision shall be construed as excepting
15 a secondhand dealer from the fingerprinting requirement of
16 subdivision (g).

17 (k) Nothing in this section shall be construed to exempt a person
18 licensed as a firearms dealer pursuant to Article 4 (commencing
19 with Section 12071) of Chapter 1 of Title 2 of Part 4 of the Penal
20 Code from the reporting requirements for the delivery of firearms
21 pursuant to Section 12071 of the Penal Code.

22 (l) This section shall become operative on July 1, 2010.

23 SEC. 2. Sections 1.5 and 1.7 of this bill incorporate changes
24 to Section 21628 of the Business and Professions Code proposed
25 by both this bill and SB 449. Sections 1.5 and 1.7 shall only become
26 operative if (1) both bills are enacted and become effective on or
27 before January 1, 2010, (2) each bill amends Section 21628 of the
28 Business and Professions Code, (3) SB 449 repeals and adds
29 Section 21628 of the Business and Professions Code, and (4) this
30 bill is enacted after SB 449, in which case Section 1 of this bill
31 and Sections 1 and 2 of SB 449 shall not become operative.